



Office of the Attorney General

State of Texas

September 23, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. Armando X. Lopez
Trustee
Laredo Independent School District
1010 Juarez
Laredo, Texas 78040

OR92-563

Dear Mr. Lopez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16827.

You have received a request for information relating to cellular telephones used by officials of the Laredo Independent School District (the "school district"). Specifically, the requestor seeks

all records for the year 1991 of cellular telephones used by administration executives, including the superintendent, the assistant superintendent, and any other officials authorized by the superintendent's office to have cellular telephones in their possession which are paid by the Laredo Independent School District to include all monthly statements for that year as well as the records of all calls made and the telephone numbers to which all outgoing and incoming calls were made.

You have submitted to us for review telephone billing records. You advise us that you do not object to release of information relating to official incoming and outgoing calls. You claim, however, that some of the requested information is

excepted from required public disclosure by sections 3(a)(1), 3(a)(9), and 3(a)(17) of the Open Records Act.¹

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Information may be withheld from required public disclosure under common-law privacy if it meets the criteria that the Texas Supreme Court articulated for section 3(a)(1) of the act. *See Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under *Industrial Foundation*, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public.

You advise us that payment for expenses resulting from use of the superintendent's cellular telephone is included in the superintendent's employment contract as part of his compensation. The school district is billed for all calls resulting from use of the telephones. Payment for such expenses, you advise, extends to expenses resulting from personal as well as official calls. You contend that information relating to personal calls made on the superintendent's cellular telephone is protected by privacy interests. You do not explain, however, nor do the documents provide an explanation on their face, how or why information relating to personal calls is "intimate or embarrassing." *See generally* Open Records Decision No. 506 (1988) (copy enclosed); Open Records Letter OR92-55 (1992) (copy enclosed). Accordingly, the requested information is not protected by privacy interests and must be released.²

¹Section 3(a)(17) excepts from required public disclosure "the home addresses or home telephone numbers of each official or employee . . . of a governmental body except as otherwise provided by Section 3A of this Act." Section 3A(a) provides that section 3(a)(17) may be applied only when an official or employee indicates in writing that he does not want his home address and telephone number disclosed. *See* Open Records Decision No. 530 (1989). Accordingly, the requested information may be withheld from required public disclosure to the extent that it reveals the home addresses or home telephone numbers of officials or employees who have indicated in writing that they do not want their home addresses or home telephone numbers disclosed.

²You also claim that section 3(a)(9) excepts some of the requested information from required public disclosure. Section 3(a)(9) excepts from disclosure, "private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy." Because none of the records are those of "an elected office holder," section 3(a)(9) does not apply.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-563.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/GCK/lmm

Enclosures: Open Records Decision No. 506
Open Records Letter OR92-55

Ref.: ID# 16827
ID# 16848

cc: Mr. A.R. Kahn, Jr., D.V.M.
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